

## ***Superintendent File: AC-R-1***

### **NONDISCRIMINATION/EQUAL OPPORTUNITY**

(Complaint and Compliance Process)

The district is committed to providing a working and learning environment that is free from unlawful discrimination and harassment. The district shall promptly respond to concerns and complaints of unlawful discrimination and/or harassment; take action in response when unlawful discrimination and/or harassment is discovered; impose appropriate sanctions on offenders in a case-by-case manner; and protect the privacy of all those involved in unlawful discrimination and/or harassment complaints as required by state and federal law. When appropriate, the complaint shall be referred to law enforcement for investigation. However, the compliance officer or designee shall not rely solely on a criminal investigation by a law enforcement agency in lieu of responding to a report of harassment or discrimination.

The district has adopted the following procedures to promptly and fairly address concerns and complaints about unlawful discrimination and/or harassment, including unlawful discrimination or harassment directed at students by any other student or a staff member, except that complaints alleging discrimination on the basis of disability may be addressed as provided for in Policy KEE utilizing the complaint procedure identified in Superintendent File: KEE-R if agreed to by the complainant and complaints alleging sexual harassment under Title IX shall be addressed in accordance with the procedures identified in Superintendent File AC-R-2. Allegations that a student or district staff member engaged in unlawful discrimination or harassment directed at a student or group of students shall be investigated and otherwise responded to and addressed consistent with the requirements of Colorado law at C.R.S. § 22-1-143 *et seq.*<sup>1</sup>

Complaints may be submitted orally or in writing and may be made by phone, email, in person, or through an on-line form.

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<sup>1</sup> Pursuant to Colorado law at C.R.S. § 22-1-143(1)(d), “harassment or discrimination” by a student or employee that is directed at a student or group of students means engaging in any unwelcome physical or verbal conduct or any written, pictorial, or visual communication because of a student’s or group’s membership in, or perceived membership in, a protected class identified in Board File Policy AC or any other class protected under State law, which conduct or communication is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute harassment or discrimination and constitutes harassment or discrimination if: (a) submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual’s access to an educational service, opportunity, or benefit; (b) submission to, objection to, or rejection of the conduct or communication is used or explicitly or implicitly threatened to be used as a basis for educational decisions affecting the individual; or (c) the conduct or communication has the purpose or effect of unreasonably interfering with the individual’s access to their educational service, opportunity, or benefit or creating an intimidating, hostile, or offensive educational environment. Petty slights, minor annoyances, and lack of good manners do not constitute harassment or discrimination unless the slights, annoyances or lack of manners, when taken in combination and under the totality of the circumstances, meet the standards set forth pursuant to Colorado law at C.R.S. § 22-1-143(1)(d).

## Definitions

1. "**Compliance officer**" means a district employee designated by the Board to receive complaints of alleged unlawful discrimination and harassment. The compliance officer shall be identified by name, address, telephone number and email address. If the designated individual is not qualified or is unable to act as such, the superintendent shall designate another district employee to serve as compliance officer.
2. "**Aggrieved individual**" shall mean a student, the parents or guardians of a student under the age of 18 acting on behalf of a student, an employee of the district, or member of the public who is directly affected by and/or is witness to an alleged violation of Board policies prohibiting unlawful discrimination or harassment.

## Compliance officer's duties

The compliance officer shall be responsible for conducting an investigation and coordinating all complaint procedures and processes for any alleged violation of federal or state statute or Board policy prohibiting unlawful discrimination or harassment. The compliance officer's duties shall include providing notice to students, parents/guardians of students, employees and the general public concerning the compliance process, providing training for district staff regarding the prohibition of discrimination/harassment in all district programs, activities and employment practices, disseminating information concerning the forms and procedures for the filing of complaints, ensuring the prompt investigation of all complaints, coordinating hearing procedures, and identifying and addressing any patterns or systemic problems that arise during the review of complaints. The compliance officer may delegate any or all of the foregoing responsibilities as necessary and/or appropriate under the circumstances. However, no person can serve as a compliance officer or designee in a matter in which they have a bias or conflict of interest with regard to the parties and/or the underlying conduct, or if they are alleged to have participated in prohibited conduct.

## Making a complaint and the complaint procedure

**The District's Compliance Officer is Mr. Aaron Henderson, Director for Equal Education and Employment Opportunity, [ahenderson1@dcsdk12.org](mailto:ahenderson1@dcsdk12.org), 303-387-0127. The Office for Equal Education and Employment Opportunity is located at Douglas County School District's Administration Building, 620 Wilcox Street, Castle Rock, CO 80104.**

An aggrieved individual is encouraged to promptly report the incident as provided in Board policy and this regulation. All reports received by teachers, counselors, principals or other district employees shall be promptly forwarded to the compliance officer. If the compliance officer is the individual alleged to have engaged in the prohibited conduct, the complaint shall be forwarded to the superintendent.

Any aggrieved individual may file with the compliance officer a complaint charging the district, another student or any district employee with unlawful discrimination or harassment. Complaints may be made orally or in writing and may be made by phone, email, in person, or through an on-line form. Persons who wish to file a written complaint are encouraged to use the district's complaint form.

All complaints shall include a detailed description of the alleged events, the dates the alleged events occurred and names of the parties involved, including any witnesses. The complaint shall be made as soon as possible after the incident.

The compliance officer shall confer with the aggrieved individual and/or the alleged victim of the unlawful discrimination or harassment as soon as is reasonably possible, but no later than 5 business days following the compliance officer's receipt of the complaint in order to obtain a clear understanding of the basis of the complaint.

Within 10 calendar days following the initial meeting with the aggrieved individual and/or alleged victim, the compliance officer shall attempt to meet with the individual alleged to have engaged in the prohibited conduct and, if a student, his or her parents/guardians in order to obtain a response to the complaint. Such person(s) shall be informed of all allegations that, in the compliance officer's judgment, are necessary to achieve a full and accurate disclosure of material information or to otherwise resolve the complaint.

At the initial meetings, the compliance officer shall explain the avenues for informal and formal action, provide a description of the complaint process, and explain that both the victim and the individual alleged to have engaged in prohibited conduct have the right to exit the informal process and request a formal resolution of the matter at any time. The compliance officer shall also explain that whether or not the individual files a written complaint or otherwise requests action, the district is required by law to take steps to correct the unlawful discrimination or harassment and to prevent recurring unlawful discrimination, harassment or retaliation against anyone who makes a report or participates in an investigation. The compliance officer shall also explain that any request for confidentiality shall be honored so long as doing so does not preclude the district from responding effectively to prohibited conduct and preventing future prohibited conduct.

- **Additional complaint procedures to be applied in response to allegations of harassment or discrimination directed at students**

The following procedures shall be implemented related to allegations of harassment or discrimination of a student or staff member directed at a student or group of students:

- a. Consideration of accommodations and supportive measures: Accommodations and supportive measures shall be considered and may be provided as soon as a report of harassment or discrimination directed at a student or group of students is received. A formal report or finding of harassment or discrimination is not required before providing supportive measures to a student. If a student with a disability is

a party, there should be collaboration with the student's 504/IEP team when considering whether and/or what appropriate supportive measures should be implemented.

Accommodations and supportive measures may include, but are not limited to, counseling, extensions or deadlines or other course-related adjustments, extra time for homework or tests, the opportunity to resubmit homework or retake a test, remedying an impacted grade, excused absences, the opportunity for home instruction, modifications to class schedules, and restrictions on contact between the parties to a report of harassment or discrimination.

As appropriate to the circumstances, students may request accommodations or supportive measures by contacting the compliance officer or designee.

- b. Timeline: The investigation and any findings should be made within sixty (60) days after the report, except that the period may be extended for up to thirty (30) additional days for good cause with prior written notice to the parties of the delay and the reason for the delay or may extend the deadline at the request of a law enforcement agency.
- c. Requirements during the investigation process: The following requirements must be afforded the parties throughout the investigation:
  - The parties must be provided with the same opportunity to have an advisor or other person present during any part of the investigation process;
  - The parties must be informed that all questions related to the investigation should be directed to the person conducting the investigation;
  - Written updates about the status of an investigation or proceeding must be provided to the parties and the parties' parents or legal guardians at each stage of the investigation or proceedings, but at least every fifteen (15) business days; and
  - Concurrent notification to the parties of the outcome of the investigation and any findings should be provided to the parties consistent with confidentiality requirements of FERPA.

### **Informal action**

If the aggrieved individual and/or the individual alleged to have engaged in the prohibited conduct requests that the matter be resolved in an informal manner and/or the compliance officer believes that the matter is suitable to such resolution, the compliance officer may attempt to resolve the matter informally through mediation, counseling or other non-disciplinary means. If both parties feel a resolution has been achieved through the informal process, then no further compliance action must be taken. No party shall be compelled to resolve a complaint of unlawful discrimination or

harassment informally and either party may request an end to an informal process at any time. Informal resolution shall not be used to process complaints against a district employee and shall not be used between students where the underlying offense involves sexual assault or other act of violence.

### **Formal action**

If informal resolution is inappropriate, unavailable or unsuccessful, the compliance officer shall promptly investigate the allegations to determine whether and/or to what extent, unlawful discrimination or harassment has occurred. The compliance officer may consider the following types of information in determining whether unlawful discrimination or harassment occurred:

- a. statements by any witness to the alleged incident,
- b. evidence about the relative credibility of the parties involved,
- c. evidence relative to whether the individual alleged to have engaged in prohibited conduct has been found to have engaged in prohibited conduct against others,
- d. evidence of the aggrieved individual and/or alleged victim's reaction or change in behavior following the alleged prohibited conduct,
- e. evidence about whether the alleged victim and/or aggrieved individual took action to protest the conduct,
- f. evidence and witness statements or testimony presented by the parties involved,
- g. other contemporaneous evidence, and/or
- h. any other evidence deemed relevant by the compliance officer.
- i. In deciding whether conduct is a violation of law or policy, all relevant circumstances shall be considered by the compliance officer, including:
- j. the degree to which the conduct affected one or more student's education or one or more employee's work environment,
- k. the type, frequency and duration of the conduct,
- l. the identity of and relationship between the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or alleged victim,
- m. the number of individuals alleged to have engaged in the prohibited conduct and number of victims of the prohibited conduct,
- n. the age of the individual alleged to have engaged in the prohibited conduct and the aggrieved individual and/or alleged victim,
- o. the size of the school, location of the incident and context in which it occurred,
- p. other incidents at the school.

A **preponderance of evidence** standard must be applied in reaching any determination when evaluating the information/evidence received regarding the alleged conduct, which means that it is more likely than not that the conduct occurred.

The compliance officer shall prepare a written report containing findings and recommendations, as appropriate, and submit the report to the superintendent within 45 school days following the compliance officer's receipt of the complaint or 30 calendar days following the termination of the informal resolution process.

The compliance officer's report shall be advisory and shall not bind the superintendent or the district to any particular course of action or remedial measure. Within 10 school days after receiving the compliance officer's findings and recommendation, the superintendent or designee shall determine any sanctions or other action deemed appropriate, including if appropriate recommendations to the Board for disciplinary or other action.<sup>2</sup>

To the extent permitted by federal and state law, all parties, including the parents/guardians of all students involved, shall be notified in writing of the final outcome of the investigation and all steps taken by the district within 10 school days following the superintendent's and/or Board's determination.

### **Hearing procedure**

Either the aggrieved individual/alleged victim or any individual alleged to have engaged in any prohibited conduct has the right to appeal any decision made by the Compliance Officer or designee and request a hearing. This hearing procedure will not address guilt or innocence or disciplinary consequences which shall instead be governed by the Board's discipline policies and procedures. Such a hearing must be initiated within 10 school days of receiving the Superintendent's/designee's notice of the final outcome.

The hearing officer will be a district level administrator designated by the Superintendent. The hearing shall be informal and shall be recorded. Formal rules of evidence shall not apply. A student shall be entitled to be represented by his/her parent or by an attorney. An employee shall be entitled to be represented by an attorney or other representative of his/her choice. The complainant may appear at the hearing and shall be entitled to present testimony and other evidence. A district representative shall likewise be entitled to present testimony and other evidence. The hearing shall be closed to the public.

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<sup>2</sup> Disciplinary action may not be taken against a student based on a student report of harassment or discrimination, whether verbal or in writing, or information revealed in any investigation or disciplinary proceedings of the report for any of the following conduct: engaging in reasonable self-defense against the respondent; consensual sexual activity; drug use; alcohol use; late arrival; truancy; unauthorized access to facilities; talking publicly about the reported harassment or discrimination or expressing a trauma symptom. However, nothing prohibits a disciplinary response to a student who knowingly makes a false report of harassment or discrimination or when necessary to ensure the safety of any student or district employee. A finding of no harassment or discrimination does not itself constitute a false report

Within 20 school days after the hearing, the hearing officer shall issue a written recommendation to the superintendent based upon evidence presented at the administrative hearing. Within 10 school days of receiving the hearing officer's recommendations, the superintendent or designee shall determine any final action deemed appropriate.

### **No retaliation**

There shall be no retaliation against an individual reporting discrimination or harassment or who participates in an investigation into a report of discrimination or harassment.

### **Outside agencies**

In addition to, or as an alternative to, filing a complaint pursuant to this regulation, a person may file a discrimination complaint with the U.S. Department of Education, Office for Civil Rights (OCR); the Federal Office of Equal Employment Opportunity Commission (EEOC); or the Colorado Civil Rights Division (CCRD). The addresses of these agencies are listed below.

Denver Office for Civil Rights (OCR), U.S. Department of Education, 1244 Speer Blvd., Suite 310, Denver, CO 80204-3582. Toll Free: 800-262-4845 English/Spanish. Telephone: 303-8445695. Fax: 303-844-4303. TTY: 303-844-3417. Email: [OCR Denver @ed.gov](mailto:OCR_Denver@ed.gov)

Federal Office of Equal Employment Opportunity Commission (EEOC), 303 E. 17th Avenue, Denver, CO 80203. Toll Free: 800-669-4000. Fax: 303-866-1085. TTY: 800-669-6820. ASL Video Phone: 844-234-5122. Website: <https://publicportal.eeoc.gov/portal/>

Colorado Civil Rights Division (CCRD), 1560 Broadway, Suite 825, Denver, CO 80202. Toll Free: 800-886-7675. Telephone: 303-894-2997. Fax: 303-894-7830. Email: [DORA\\_CCRD@state.co.us](mailto:DORA_CCRD@state.co.us) (general inquiries), [DORA\\_CCRDIntake@state.co.us](mailto:DORA_CCRDIntake@state.co.us) (intake unit)

### **Resources for students who are victims of violence**

#### **a. Douglas County Sheriff's Office Domestic Violence Support:**

- i [DCSO Victim Assistance Advocate](#) and information regarding resources available at **303-660-7535**
- ii [The Crisis Center](#) 24/7 line at **303-688-8484**

#### **b. Violence Free Colorado at <https://www.violencefreecolorado.org/>**

#### **c. SafeHouse Denver** (offers support to survivors of domestic violence)

#### **d. 24-Hour Crisis and Information Line: 303.318-9989**

#### **e. Colorado Department of Human Resources Domestic Violence Program at <https://cdhs.colorado.gov/dvp>**

**g. National Domestic Violence Hotline**

Hours: 24/7. Languages: English, Spanish and 200+ through interpretation service  
**800-799-7233**

**h. Crisis Center at <https://www.thecrisiscenter.org/> 24/7 Crisis Line: 303-688-8484**

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